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State NPDES Authority Statutes:

Louisiana



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State NPDES Authority Statutes: Louisiana

[LSA-R.S. §§ 30:2071 – 2077](#)

Current through the 2022 legislative session.

§ 2071. Citation.

This Chapter shall be known and may be cited as the “Louisiana Water Control Law.”

§ 2072. Policy; Purpose.

The legislature finds and declares that the waters of the state of Louisiana are among the state's most important natural resources and their continued protection and safeguard is of vital concern to the citizens of this state. To insure the proper protection and maintenance of the state's waters, it is necessary to adopt a system to control and regulate the discharge of waste materials, pollutants, and other substances into the waters of the state.

§ 2073. Definitions.

As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise:

- (1) “Louisiana Pollutant Discharge Elimination System (LPDES)” means those portions of the Louisiana Environmental Quality Act and the Louisiana Water Control Law and all regulations promulgated under their authority which are deemed equivalent to the National Pollutant Discharge Elimination System (NPDES) under the Federal Water Pollution Control Act, otherwise known as the Clean Water Act, and for which Louisiana is the delegated authority. The LPDES specifically includes but is not limited to authority to issue all permits provided for under Sections 402 and 405 of the Federal Water Pollution Control Act, as well as the general permits program, the storm water discharge program, the pretreatment program, and the sewage sludge program.
- (2) “LPDES variance” means any mechanism or provision which allows modification to or waiver of permit conditions of state regulatory requirements applicable to discharges of substances to waters of the state or to treatment works but does not include those variances which under federal law may only be granted by the Environmental Protection Agency.
- (3) “Treatment works” means any plant or other works which accomplishes the treating, stabilizing, or holding of wastes.
- (4) “Untreated wastes” means wastes which have not been treated in treatment works.
- (5) “Wastes” means any material for which no use or reuse is intended and which is to be discarded.



(6) “Water pollution”, except for the purposes of the Louisiana Pollution Discharge Elimination System, means the introduction into waters of the state by any means, including but not limited to dredge and fill operations, of any substance in concentrations which tend to degrade the chemical, physical, biological, or radiological integrity of such waters, including but not limited to the discharge of brine from salt domes which are located on the coastline of Louisiana and the Gulf of Mexico into any waters off said coastline and extending therefrom three miles into the Gulf of Mexico. For the purposes of the Louisiana Pollutant Discharge Elimination System, as defined herein, “water pollution” includes but is not limited to any addition of any pollutant or combination of pollutants to waters of the state from any source, or any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the Gulf of Mexico from any source other than a vessel or other floating craft which is being used as a means of transportation. For the purposes of the Louisiana Pollutant Discharge Elimination System, as defined in this Paragraph, the definition of “water pollution” further includes but is not limited to additions of pollutants into waters of the state from surface runoff, which is collected or channelled by man; discharges through pipes, sewers, or other conveyances owned by the state, a municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by an indirect discharger to a publicly owned treatment works.

(7) “Waters of the state” means both the surface and underground waters within the state of Louisiana including all rivers, streams, lakes, groundwaters, and all other water courses and waters within the confines of the state, and all bordering waters and the Gulf of Mexico. However, for purposes of the Louisiana Pollutant Discharge Elimination System, “waters of the state” means all surface waters within the state of Louisiana and, on the coastline of Louisiana and the Gulf of Mexico, all surface waters extending therefrom three miles into the Gulf of Mexico. For purposes of the Louisiana Pollutant Discharge Elimination System, this includes all surface waters which are subject to the ebb and flow of the tide, lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, impoundments of waters within the state of Louisiana otherwise defined as “waters of the United States” in 40 CFR 122.2, and tributaries of all such waters. “Waters of the state” does not include waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act, 33 U.S.C. 1251 et seq.

(8) “Bordering waters”, as used in Paragraph (7) of this Section, means any waters of the state as otherwise defined, any part of which is located within the confines of the state, and any waters which touch the coastline of Louisiana as it borders on the Gulf of Mexico, and includes the waters of the Gulf of Mexico.

(9) “Public sanitary sewerage system” means a privately or publicly owned system intended to provide for the collection, conveyance, or treatment of waste water and other sewage for the public or such facilities owned by the public, if the system has at least



fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year. The term includes:

- (a) Any collection, conveyance, treatment, storage, or discharge facilities under the control of the operator of the system and used primarily in connection with the system.
- (b) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.

§ 2074. Water Quality Control; Secretary of Environmental Quality; Powers and Duties.

A. The department shall have the following powers and duties with respect to water quality control:

- (1) To prepare and develop a general plan for the proper protection and control of the waters of the state.
- (2) To make investigations on its own motion or upon the complaint of any person and by appropriate order to control, regulate, or restrain the discharge of any waste material or polluting substance discharged or sought to be discharged into any waters of the state in accordance with the provisions of R.S. 30:2025.
- (3) To process all applications for certifications which applicants for federal or state licenses or permits are required to provide to the appropriate agency. In connection with the issuance of such certificates, one notice of each application for a certification under this Paragraph must either be published in the official journal of the state or issued as a joint notice by the agency requiring the certification. In the event the secretary determines that there is significant public interest in the proposed activity, he shall cause notice to be published in a newspaper of general circulation in the affected area. The cost of publication of public notice shall be borne by the applicant. The notice shall provide that comments concerning the application may be filed with the department in accordance with regulations developed to implement this Chapter. After the time provided for public comment, the department shall act upon the application and take such action as it deems appropriate. If, as a condition to certification, the secretary proposes any alterations to the federal or state license or permit, as drafted, or proposes to deny the certification, the secretary shall promptly notify the applicant of the proposed alterations or denial and shall provide the applicant an opportunity for a hearing in connection with such proposed alterations or proposed denial in accordance with R.S. 30:2024(A). Conditional certifications and certification denials shall be considered permit actions for all purposes.
- (4) To administer the Clean Water State Revolving Fund as established in R.S. 30:2302. The department is also authorized to enter into contracts and other agreements in connection with the operation of the Clean Water State Revolving Fund to the extent necessary or convenient for the implementation of the Clean Water State Revolving Fund Program.



B. The secretary shall have the following powers and duties:

(1) To establish such standards, guidelines, or criteria as he deems necessary or appropriate to prohibit, control, or abate any of the following:

(a) Water pollution.

(b) Discharges into publicly owned treatment works in accordance with Sections 307 and 402 of the Federal Water Pollution Control Act.

(c) Use and disposal of sewage sludge in accordance with Section 405 of the Federal Water Pollution Control Act.

(2) To ascertain and determine, for record and for use in making regulations, what volume of water actually flows in any stream, as well as the high and low water marks of waters of the state affected by the waste disposal or pollution of any person.

(3) To adopt and promulgate rules and regulations consistent with the general intent and purposes of this Chapter to prevent water pollution, including but not limited to the following:

(a) Regulations requiring compliance by users of publicly owned treatment works in accordance with Sections 307 and 402 of the Federal Water Pollution Control Act.

(b) Regulations requiring compliance with pretreatment standards and requirements in accordance with Sections 307 and 402 of the Federal Water Pollution Control Act.

(c) Regulations requiring the treatment of wastes in treatment works.

(d) Regulations prohibiting the unpermitted discharge of untreated or improperly treated wastes.

(e) Regulations prohibiting improper sewage sludge use or disposal, including but not limited to general requirements, pollutant limits, management practices, operational standards, and monitoring, recordkeeping, transporting, and reporting requirements for the final use or disposal of sewage sludge, when such use or disposal is by land application, surface disposal, disposal in a permitted landfill, or incineration, in accordance with Section 405 of the Federal Water Pollution Control Act or state water quality and sewage sludge and biosolids use or disposal standards.

(f) Regulations requiring the training and the certification of generators and preparers of sewage sludge for the final use or disposal of sewage sludge, when such use or disposal is by land application, surface disposal, disposal in a permitted landfill or incineration, in accordance with Section 405 of the Federal



Water Pollution Control Act or state water quality and sewage sludge and biosolids use or disposal standards.

(4) To develop permitting procedures and to require and issue permits, variances, LPDES variances, licenses, or compliance schedules for all waste water discharges, discharges of waste, or sources of water pollution to the surface waters of the state, and to require of and issue LPDES permits to any person who prepares sewage sludge, applies sewage sludge to the land, or fires sewage sludge in a sewage sludge incinerator, or to the owner or operator of a sewage sludge surface disposal site and, when the secretary deems it advisable, to delegate the power to issue or deny such permits, variances, LPDES variances, licenses, or compliance schedules to the appropriate assistant secretary subject to his continuing oversight. The authority to execute minor permit actions and to issue registrations, certifications, notices of deficiency, and notification of inclusion under a general permit may be delegated by the secretary or the appropriate assistant secretary to an authorized representative, notwithstanding the provisions of R.S. 30:2050.26. Nothing in this Subsection shall preclude the secretary from issuing compliance schedules or taking enforcement action to address unauthorized pollution of ground waters of the state.

(5) To adopt and promulgate rules and regulations to provide for the cleanup and remediation of any pollution of waters of the state.

(6) To apply for and accept grants of money from the United States Environmental Protection Agency or other federal agencies for the purpose of making funds available to political subdivisions in the state for the planning, design, construction and rehabilitation of wastewater treatment facilities and other related activities.

(7) To establish such standards, guidelines, or criteria by rule as he deems necessary to prevent the discharge from water crafts, other than vessels engaged in commercial fishing and licensed pursuant to R.S. 56:304 et seq., of trash, garbage, and untreated or improperly treated sewage or sewage sludge in an amount, manner, or area which would further degrade the quality of anchorage waters or certain immediately adjacent waters within Louisiana. The standards herein authorized and required shall provide at a minimum for:

(a) Water crafts to which such standards shall apply.

(b) Reporting requirements of water craft owners or operators necessary to effectuate the intent of this Paragraph, including technical information related to onboard waste containment or treatment equipment.

(c) Requirements of evidence of any service contracts or other arrangements necessary to properly remove and dispose of such wastes.

(d) Specific standards for garbage lighterage and pump out services which remove these wastes.



(e) Requirements of evidence that a water craft has emptied its holding tanks outside Louisiana waters.

(8) To adopt and promulgate rules and regulations for the administration of the Municipal Facilities Revolving Loan Fund, provided such rules and regulations shall not take effect unless approved by the House of Representatives Ways and Means Committee and the Senate Revenue and Fiscal Affairs Committee.

(9)

(a) To adopt and promulgate regulations necessary to establish and administer a water quality trading program as an inducement to reduce discharges of pollutants into waters of the state. This water quality trading program may include point source and nonpoint source participation. Nonpoint sources may participate in the program through a written agreement between the department and the appropriate governmental entity with jurisdiction over the nonpoint source, or other written agreement with the department. Such regulations shall include, at a minimum, the following:

(i) Criteria under which credits may be certified, generated, quantified, and validated.

(ii) Geographical limitations on the use of credits, where applicable.

(iii) Criteria for the monitoring, certifying, generating, use, banking, term, enforcement, and sale of banked credits.

(iv) The approval of the department for the certifying, generating, use, banking, and sale of banked credits.

(v) Requirements for the maintenance and submission of records concerning monitoring of pollutant levels, credit offset amounts, and banked credits.

(vi) Any other requirements needed to comply with federal and state laws and regulations.

(b) A pilot project may be used to aid in the development of a water quality trading program prior to the adoption of regulations promulgated pursuant to Subparagraph (a) of this Paragraph. Any such project shall be conducted in accordance with the terms and conditions of an implementation plan approved by the department.

(c) In addition to the review of agency rules provided for in R.S. 49:968, all reports of rules and regulations implementing the provisions of this Paragraph shall also be submitted to the House Committee on Agriculture, Forestry, Aquaculture and Rural Development and the Senate Committee on Agriculture,



Forestry, Aquaculture and Rural Development for oversight in accordance with the procedures provided for in R.S. 49:968.

(d) Repealed by Acts 2017, No. 371, § 2, eff. June 23, 2017.

(e) Repealed by Acts 2017, No. 371, § 2, eff. June 23, 2017.

(10) To develop regulatory permits for certain water discharges provided the following conditions are satisfied:

(a) A regulatory permit cannot be used for any facility which is a new major facility or for any major modification of an existing facility as defined in applicable rules and regulations.

(b) Use of a regulatory permit may be precluded by specific permit conditions contained within a Louisiana pollutant discharge elimination system permit.

(c) A regulatory permit shall not preclude the secretary from exercising all powers and duties as set forth in R.S. 30:2011(D), including but not limited to the authority to conduct inspections and investigations and enter facilities as provided in R.S. 30:2012, and to sample or monitor, for the purposes of assuring compliance with a regulatory permit or as otherwise authorized by this Subtitle, federal Water Pollution Control Act, or regulations adopted thereunder, any substances or pollutants at any location.

(d) A regulatory permit shall require compliance with all applicable provisions of the department's rules and regulations and the federal Water Pollution Control Act. Violation of the terms and conditions of a regulatory permit constitutes a violation of such regulation or Act.

(e) A regulatory permit shall prescribe, as appropriate, discharge limitations, any necessary control requirements, other enforceable conditions, and associated monitoring, record keeping, and reporting provisions necessary for the protection of public health and the environment.

(f) A regulatory permit shall require any person seeking such permit to submit a written notification and any fee authorized by this Subtitle and applicable regulations to the secretary. Submission of a written notification and any fee authorized by this Subtitle and applicable regulations shall be in lieu of submission of a permit application. The written notification shall be signed and certified in accordance with LAC 33:IX governing permit application submittal. Any person who submits a written notification and any fee authorized by this Subtitle and applicable regulations shall be authorized to operate under the regulatory permit for which the notification was submitted when notified by the department that the notification was complete.



(g) All regulatory permits promulgated by the secretary shall establish notification procedures, permit terms, and confirmation of notification by the department and shall be promulgated in accordance with the procedures provided in R.S. 30:2019.

(h) No later than January 1, 2007, the secretary shall consider which activities are appropriate for coverage under a regulatory permit and publish an initial list of such activities.

(11) To register and license transporters or haulers of sewage sludge and biosolids and transporters or haulers of sewage sludge mixed with grease pumped or removed from a food service facility.

C. The office of the secretary shall, in conjunction and coordination with the Department of Natural Resources, conduct a risk analysis of the discharge of produced waters, excluding cavern leach waters, from oil and gas activities onto the ground and into the surface waters in the coastal wetlands of this state. The analysis shall examine the environmental risks and economic impact of allowing such discharges in the coastal wetlands and the economic impact on the oil and gas industry if such discharges are prohibited. The analysis shall be completed and delivered to the committees on natural resources of the House of Representatives and Senate no later than April 1, 1988.

D.

(1) Any information submitted to the Department of Environmental Quality, pursuant to the Louisiana Water Control Law or regulations promulgated under its authority, may be claimed as confidential in accordance with R.S. 30:2030 by the person submitting the information, except information which falls within any category listed in Paragraph (7) of this Subsection.

(2) Any such claim must be asserted at the time of submission in the manner prescribed by the application form or instructions or, in the case of other submissions, in accordance with the following:

(a) By stamping the word "CONFIDENTIAL" on each page containing such information.

(b) By submitting a written request for nondisclosure which shall specify the basis for requesting nondisclosure as provided in R.S. 30:2030.

(3) All materials clearly labeled "CONFIDENTIAL" which are submitted to the department with a written request for nondisclosure shall be afforded confidentiality pending a determination whether to grant the request. The determination shall be made within twenty-one working days from the date the request is received by the department.

(4) Confidentiality will not be afforded to any materials submitted which fall within any category of information listed in Paragraph (7) of this Subsection.



(5) If no claim is made at the time of submission, the department may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures specified above.

(6) If the secretary determines that any material received should not be afforded confidentiality, he shall issue a written denial of the request for nondisclosure to the requestor. No written denial of the request is necessary when the material submitted as confidential falls within any category of information listed in Paragraph (7) of this Subsection.

(7) No claim of confidentiality will be accepted and all claims of confidentiality will be denied for the following categories of information for all NPDES, LPDES, or other water discharge permit applicants or permittees:

(a) Name.

(b) Address.

(c) Effluent or discharge data.

(d) Contents of permit applications.

(e) All information required by the permit application whether accompanying it, attached to it, or submitted separately.

(f) Permits.

(8) All information obtained under the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., or by regulations issued under its authority, or by any order, license, or permit term or condition adopted or issued by the Act, shall be available to the public, unless nondisclosure is requested and granted in accordance with R.S. 30:2030. No information listed in said Paragraph (7) may be claimed or determined to be confidential.

(9) Any employee of the department or any former employee of the department or any authorized contractor acting as a representative of the secretary of the department who is convicted of intentional disclosure or conspiracy to disclose trade secrets or other information which has been determined to be confidential pursuant to this Subsection is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars, imprisonment for up to one year, or both.

E. No later than October 1, 1995, the secretary shall adopt rules and regulations to govern the discharge from commercial facilities of liquid wastes that contain methanol alcohol. The rules and regulations shall require pre-treatment of such waste before entering any sewer system, septic tank, or any surface waters of the state. The provisions of this Subsection shall not apply to veterinarians and hospitals. The rules adopted pursuant to this Subsection shall not be applicable to industrial facilities required to obtain permits for discharge of liquid wastes from Louisiana Department of Environmental Quality, the United States Environmental Protection Agency, or the Louisiana Department of Natural Resources.



§ 2075. Permits, Variances, and Licenses.

No person shall conduct any activity which results in the discharge of any substance into the waters of the state without the appropriate permit, variance, or license required under the regulations of the department adopted pursuant to this Chapter.

§ 2075.1. Permits and Licenses; Surcharge.

A. The legislature finds and declares that discharges of substances into the waters of the state have damaged and endangered the Louisiana molluscan shellfish industry and have increased the costs of molluscan regulation and sanitation in the state, and that it is in the best interests of the state to impose a surcharge on discharges permitted or licensed pursuant to R.S. 30:2075.

B. A surcharge at a flat rate of twenty percent of the department imposed permit fee, with a maximum of one hundred fifty dollars, shall be added to the fee for each water discharge permit issued pursuant to R.S. 30:2075 for discharges in the Atchafalaya, Terrebonne, Barataria, Lake Pontchartrain, and Mississippi River water quality management basins as defined by the department Water Quality Management Basin Plans.

<Text of subsec. C effective until July 1, 2022.>

C. The proceeds of the surcharge authorized in Subsection B of this Section shall be deposited into the Oyster Sanitation Fund, established in R.S. 40:5.10.

<Text of subsec. C effective July 1, 2022.>

C. The proceeds of the surcharge authorized in Subsection B of this Section shall be deposited into the Oyster Sanitation Dedicated Fund Account, established in R.S. 40:5.10.

D. Nothing in this Section shall be construed to modify the rules adopted pursuant to this Subtitle.

§ 7025.2. Sewage Treatment Facility; Privately Owned; Surety Required; Nonfunctional System.

A.

(1) Any applicant for, or prospective transferee of, a permit for the discharge of effluent from any privately owned sewage treatment facility regulated by the Public Service Commission shall be required to provide and maintain a bond or other acceptable financial security instrument. Any applicant, prospective transferee, or permittee may apply to the secretary of the Department of Environmental Quality for approval of a single financial security instrument, having a maximum amount of two hundred fifty thousand dollars, to satisfy the requirements of this Section for all such permits held or to be held. In determining whether to approve the application for a single financial security instrument, the secretary may consider the assets, debts, and compliance history of the applicant, the condition and capacity of the facilities to be covered by such security, and any other factor that may impact the applicant's ability to operate and



maintain the facilities. Any such bond or other instrument shall be payable to the Department of Environmental Quality and shall be conditioned upon substantial compliance with the requirements of the Louisiana Water Control Law and any permit issued or enforced under that law. Any bond shall be executed by the permittee and a corporate surety licensed to do business in the state. The purpose of the bond or other financial security shall be the protection of public health, welfare, and the environment. The department shall promulgate rules and regulations to implement this Section.

(2) The secretary or his designee may enter an order requiring forfeiture of all or part of the bond or other financial security, if he determines that:

(a) The continued operation or lack of operation and maintenance of the facility covered by this Section represents a threat to public health, welfare, or the environment because the permittee is unable or unwilling to adequately operate and maintain the facility or the facility has been actually or effectively abandoned by the permittee. Evidence justifying such a determination includes but is not limited to:

(i) The discharge of pollutants exceeding limitations imposed by applicable permits.

(ii) Failure to utilize or maintain adequate disinfection facilities.

(iii) Failure to correct overflows or backups from the collection system.

(iv) A declaration of a public health emergency by the state health officer.

(v) A determination by the Public Service Commission that the permittee is financially unable to properly operate or maintain the system.

(b) Reasonable and practical efforts under the circumstances have been made to obtain corrective actions from the permittee.

(c) It does not appear that corrective actions can or will be taken within an appropriate time as determined by the secretary.

(3) The proceeds of any forfeiture shall be used by the secretary, or by any receiver appointed by a court under R.S. 30:2075.3, to address or correct the deficiencies at the facility or to maintain and operate the system. The proceeds shall be in addition to any other funds appropriated to the department and may be expended under the authority of this Section without additional action by the legislature. Use of such proceeds under this Section shall not be subject to R.S. 38:2181 et seq.

(4) Review of any decision of the secretary under this Section shall be exclusively by appeal to the Nineteenth Judicial District Court, under R.S. 30:2050.21. The decision of the secretary shall not be stayed pending the appeal.



(5) This Subsection shall be applicable to the following actions, when taken after July 1, 1999, or upon the effective date of the rules promulgated under Paragraph (1), whichever occurs earlier:

- (a) Issuance of a new discharge permit.
- (b) Renewal of an existing discharge permit.
- (c) Modification of an existing discharge permit.
- (d) Transfer of an existing discharge permit to a different permittee.

(6)

(a) After a permittee has provided a bond or other acceptable financial security instrument under this Section and has maintained the financial security for not less than seven years, the permittee may petition the secretary for a waiver or reduction of the financial security. The secretary may, in his discretion, grant the petition, if:

(i) The facility has been in substantial compliance with the required permits under the Louisiana Water Control Law for not less than seven years.

(ii) The permittee provides the secretary with a letter from the Louisiana Public Service Commission stating that the permittee is in good standing and that the commission has no objection to the waiver or reduction of the financial security.

(b) The secretary may, in his discretion, issue, renew, modify, or transfer a permit without the required financial security being provided by the permittee, if:

(i) The permittee has made a reasonable, good faith effort to obtain the required financial security, but has been unable to do so.

(ii) The issuance, renewal, modification, or transfer of the permit is necessary to ensure uninterrupted sewage treatment or is otherwise necessary to protect human health or the environment.

(iii) The permittee provides the secretary with a letter from the Louisiana Public Service Commission stating that the permittee is in good standing and that the commission has no objection to the issuance, renewal, modification, or transfer.

(c) In no case shall a discharge be allowed by permit to continue for more than six months without the required bond or other financial security being provided by the permittee as required by this Section, unless the permittee has petitioned for and has been granted a release from the requirement to provide and maintain such financial security as provided in Subsection A.



B. If the treatment facility is to be acquired by a homeowners' association, by act of sale or donation, for operation and maintenance, the original permittee must submit the legal name of the association, with one person as "environmental contact" for any matter relating to the treatment plant. The permittee shall also include the current mailing address and telephone number for the environmental contact, which shall be submitted to the department at least sixty days prior to legal transfer of the facility.

C. No person shall be evicted from his residence and no business entity shall be evicted from its place of business for disconnecting such premises from a nonfunctional community sewage treatment system to prevent loss of life, personal injury, or severe property damage; however, any action undertaken by a person shall be taken in such a manner so as to insure that sewage from his residence or business is properly treated in a waste water treatment system approved by the appropriate state agencies.

D. Repealed by Acts 1999, No. 399, § 2.

§ 2075.3. Receivership for Sewerage Systems.

A.

(1) In any civil action brought against the owner or operator of a public sanitary sewerage system to enforce the requirements of this Subtitle or rules promulgated pursuant thereto, the court may, on its own motion or upon application of the secretary, appoint a receiver to collect the assets of the public sanitary sewerage system, collect any records relating to the current operation and users of the public sanitary sewerage system, operate and maintain the public sanitary sewerage system, and to otherwise assist the court in adjudicating the issues before the court. Application by the secretary shall not be subject to any bond requirement.

(2) The court shall place the public sanitary sewerage system in receivership upon finding any of the following:

(a) The system has been abandoned by the operator and no provisions have been made for the continued operation of the system by a qualified operator, or for providing the sewerage system's users with another system to collect, convey, or treat sewerage emanating from the users' facilities.

(b) Service by the system to its users has ceased, or cessation of such service is imminent.

(c) The operator of the system has failed or refused to comply with an emergency order issued pursuant to R.S. 30:2025(C)(1) or R.S. 30:2050.8 within twenty-four hours of notice of such order.

(d) Such other circumstances that indicate that receivership is necessary to ensure uninterrupted sewage treatment or protection of public health or the environment.



(e) The operator of the system has failed to provide or maintain a bond or other financial security, when required by R.S. 30:2075.2.

(3)

(a) The court may, on ex parte application of the secretary, pending trial, do the following:

(i) Appoint a temporary receiver with the same bond requirements as for a receiver.

(ii) Enjoin the owner and the operator of the system, and their agents, officers, or assigns, from interfering with the takeover of the system and its operation by the temporary receiver.

(iii) Order the owner and the operator of the system to provide to the temporary receiver the names and addresses of the system's customer, and the rates approved by the Public Service Commission.

(iv) Order and direct customers of the system to make payments for using the system directly to the temporary receiver.

(b) The court may continue the above orders upon the appointment of a receiver.

(4) The temporary receiver and the receiver shall have the powers set forth in R.S. 12:152(B) applied *mutatis mutandis* to the operation and business of the public sanitary sewerage system that is the subject of the receivership.

(5) The receiver, if a private person, shall execute a bond to assure the proper performance of the receiver's duties in an amount to be set by the court.

(6) The receiver, if a political subdivision that currently owns or operates a sanitary sewerage system, or if a local governmental subdivision, may be appointed by the court without any bond requirement.

(7) The receiver shall maintain separate financial records showing the income and expenses of the system and provide the court and the system's owner or operator with same and an accurate statement of the condition of the system periodically as required by the court. The court may require an independent audit of such financial statements.

(8) The receiver shall carry out the orders specified and directed by the court until discharged.

(9) The court may dissolve the receivership upon a showing of good cause by the defendant, the receiver, or the secretary.



§ 2076. Prohibitions.

A.

(1) No person shall discharge or allow to be discharged into any waters of the state:

(a) Any waste or any other substance of any kind that will tend to cause water pollution in violation of any rule, order, or regulation; or

(b) Any substance, the discharge of which violates any term, condition, or limit imposed by a permit.

(2) The provisions of this Chapter shall not apply to any unintentional nonpoint-source discharge resulting from or in connection with the production of raw agricultural, horticultural, or aquacultural products.

(3) No person shall violate any rule or regulation adopted under this Chapter or the terms of any permit or order issued under authority of this Subtitle.

(4) No person shall cause or allow to be discharged within Louisiana any trash, garbage, sewage, or sewage sludge in contravention of any rules or regulations adopted pursuant thereto and authorized by R.S. 30:2074(B)(7).

B. No person engaged in a logging operation shall discharge or leave, or allow to be discharged and left, in any of the navigable waters of the state any trees or treetop. For the purpose of this Subsection, the term “treetop” shall be defined as that topmost portion of a tree trunk, with limbs attached, measuring in excess of three inches at the base of the treetop stem.

C. No person shall discharge brine from salt domes which are located on the coastline of Louisiana and the Gulf of Mexico into any waters off said coastline and extending therefrom three miles or more into the Gulf of Mexico when it becomes evident to the department that said discharge is damaging or threatens to damage the aquatic life in the waters of the state. The department may require that any brine disposal be monitored in accordance with rules and regulations.

D. Any person who discharges, emits, or disposes of any substance into the waters of the state in contravention of any provision of this Chapter or of the regulations or of the terms and conditions of a permit or license issued thereunder, upon learning of the discharge, emission, or disposal, shall immediately, or in accordance with regulations adopted under this Subtitle, notify the department as to the nature and amount of the discharge and the circumstances surrounding the discharge. The secretary shall adopt and promulgate rules and regulations establishing procedures for making such notification. Any failure to make this notification or any attempt to conceal or actual concealment of the discharge, emission, or disposal shall be a violation of this Chapter. Each day of failure to give the notification required herein shall constitute a separate violation and shall be in addition to any other violations of this Subtitle.

E. Repealed by Acts 1990, No. 988, § 2.



F. No person shall discharge into any underground waters of the state any hazardous waste as defined in R.S. 30:2173(2). The provisions of this Subsection are not intended to impair the implementation or administration of those programs authorized by R.S. 30:4(C)(16), R.S. 30:4.1, R.S. 30:2071, and R.S. 30:2180(A)(6), as long as permitted injections are conducted in strict adherence to the terms and conditions of a valid permit issued thereunder or under the rules and regulations adopted thereunder.

G.

(1) The legislature of Louisiana hereby finds that a significant portion of the phosphate fertilizer and wet-process phosphoric acid manufacturing industry is located in the state of Louisiana, that the manufacture of wet-process phosphoric acid results in the generation of byproduct waste gypsum, and heretofore such gypsum has been disposed of by impoundment on land or by discharge into the Mississippi River. The Mississippi River is a valuable natural resource that must be protected against unnecessary degradation in order to protect and preserve the public health and welfare, drinking water quality, and major sectors of the economy including tourism and seafood industries, and the environment.

(2) No person shall discharge byproduct waste gypsum from the production of phosphate fertilizer or wet-process phosphoric acid into the Mississippi River. This prohibition shall not apply to authorized discharges of wastewaters or rainfall runoff containing dissolved gypsum or suspended gypsum when such discharge is in compliance with state and federal permits and the discharge is not for the primary purpose of disposing of byproduct waste gypsum.

§ 2076.1. Civil Enforcement.

A. Whenever, on the basis of any information available to him, the secretary finds that an owner or operator of any source is introducing a pollutant into a treatment works in violation of the Louisiana Pollutant Discharge Elimination System, the secretary may notify the owner or operator of such treatment works of such violation. If the owner or operator of the treatment works does not commence appropriate enforcement action within thirty days of the date of such notification, the secretary may commence a civil action for appropriate relief, including but not limited to a permanent or temporary injunction against the owner or operator of such treatment works.

B. In any such civil action the secretary shall join the owner or operator of such source as a party to the action. Such action shall be brought in the Nineteenth Judicial District Court for the parish of East Baton Rouge. The court shall have jurisdiction to restrain such violation and to require the owner or operator of the treatment works and the owner or operator of the source to take such action as may be necessary to come into compliance with the Louisiana Pollutant Discharge Elimination System.

C. Nothing in this Section shall be construed to limit or prohibit any other authority the department may have under the Louisiana Environmental Quality Act.



§ 2076.2. Criminal Penalties for Violation of the Louisiana Pollutant Discharge Elimination System.

A. Negligent violations.

- (1) Any person who negligently violates any provision of the Louisiana Pollutant Discharge Elimination System, or any order issued by the secretary under the Louisiana Pollutant Discharge Elimination System, or any permit condition or limitation implementing any of such provisions in a permit issued under the Louisiana Pollutant Discharge Elimination System by the secretary, or any requirement imposed in a pretreatment program approved under the Louisiana Pollutant Discharge Elimination System; or
- (2) Any person who negligently introduces into public sewer systems or into publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal, state, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in any permit issued to the treatment works under the Louisiana Pollutant Discharge Elimination System by the department;
- (3) Shall, upon conviction, be subject to a fine of not less than two thousand five hundred dollars nor more than twenty-five thousand dollars per day of violation or imprisonment for not more than one year, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this Subsection, he shall be subject to a fine of not more than fifty thousand dollars per day of violation, or imprisonment for not more than two years, with or without hard labor, or both.

B. Knowing violations.

- (1) Any person who knowingly violates any provision of the Louisiana Pollutant Discharge Elimination System or any permit condition or limitation implementing any of such provisions in a permit issued under the Louisiana Pollutant Discharge Elimination System or any requirement imposed in a pretreatment program approved under the Louisiana Pollutant Discharge Elimination System; or
- (2) Any person who knowingly introduces into public sewer systems or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage, or other than in compliance with all applicable federal, state, or local requirements or permits, which causes such treatment work to violate any effluent limitation or condition in a permit issued to the treatment works under the Louisiana Pollutant Discharge Elimination System;



(3) Shall, upon conviction, be subject to a fine of not less than five thousand dollars nor more than fifty thousand dollars per day of violation, or imprisonment for not more than three years, with or without hard labor, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this Subsection, he shall be subject to a fine of not more than one hundred thousand dollars per day of violation, or imprisonment for not more than six years, with or without hard labor, or both.

C. Knowing endangerment.

(1) Any person who knowingly violates any provision of the Louisiana Pollutant Discharge Elimination System or any order issued by the secretary under the Louisiana Pollutant Discharge Elimination System or any permit condition or limitation implementing any of such provisions in a permit issued under the Louisiana Pollutant Discharge Elimination System by the secretary, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than two hundred fifty thousand dollars or imprisonment for not more than fifteen years, with or without hard labor, or both. A juridical person shall, upon conviction of violating this Paragraph, be subject to a fine of not more than one million dollars. If a conviction of a person is for a violation committed after a first conviction of such person under this Paragraph, he shall be subject to a fine of up to five hundred thousand dollars or imprisonment for up to thirty years at hard labor, or both.

(2) For the purpose of Paragraph (1) of this Subsection:

(a) In determining whether a defendant who is an individual knew that his conduct placed another person in imminent danger of death or serious bodily injury, the following shall apply:

(i) The person is responsible only for actual awareness or actual belief that he possessed; and

(ii) Knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant.

(iii) In proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information. The knowledge necessary for culpability of a natural person is actual knowledge which may be established by direct or circumstantial evidence, but not constructive or vicarious knowledge. Knowledge that the defendant should have had, could have had, or would have had under various circumstances does not suffice if he did not actually have the requisite knowledge about the danger at the time he acted.



(b) It is an affirmative defense to prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonable foreseeable hazards of:

(i) An occupation, a business, or a profession; or

(ii) Medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent; and

(iii) Such defense may be established under this Subparagraph by a preponderance of the evidence.

(c) The term “organization” means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

(d) The term “serious bodily injury” means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

D. False Statements. Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Louisiana Pollutant Discharge Elimination System or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under the Louisiana Pollutant Discharge Elimination System shall, upon conviction, be subject to a fine of not more than ten thousand dollars or imprisonment for not more than two years, with or without hard labor, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this Subsection, he shall be subject to a fine of not more than twenty thousand dollars per day of violation, or imprisonment for not more than four years, with or without hard labor, or both.

E. Treatment of single operational upset. For purposes of this Section, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

F. Responsible corporate officer as “person”. For the purposes of this Section, the term “person” means an individual, corporation, partnership, association, state, municipality, commission, political subdivision of a state, any interstate body, or any responsible corporate officer.

G. Hazardous substance defined. For the purpose of this Section, the term “hazardous substance” means any of the following:



(1) Any substance designated pursuant to Section 311(b)(2)(A) of the Clean Water Act (33 U.S.C. § 1321(b)(2)(A)).

(2) Any element, compound, mixture, solution, or substance designated pursuant to Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9602).

(3) Any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act (42 U.S.C. § 6921), but not including any waste the regulation of which under the Solid Waste Disposal Act (42 U.S.C. § 6901 et seq.) has been suspended by Act of Congress.

(4) Any toxic pollutant listed under Section 307(a) of the Clean Water Act (33 U.S.C. § 1317(a)).

(5) Any imminently hazardous chemical substance or mixture with respect to which the administrator has taken action pursuant to Section 7 of the Toxic Substances Control Act (15 U.S.C. § 2606).

H. Notice to district attorney. Upon a determination that a criminal violation may have occurred under this Section, notification shall be given to the district attorney in whose jurisdiction such possible violation has occurred. The secretary shall provide the district attorney with any and all information necessary to evaluate the alleged violation for criminal prosecution. The criminal prosecution of such violations shall be at the direction of the district attorney. The secretary shall cooperate fully with the district attorney.

I. Negligently defined. For purposes of this Section, the term “negligently” has the meaning specified under R.S. 14:12 with respect to the definition of criminal negligence.

§ 2077. Remediation of Pollution.

Any person who allows, suffers, permits, or causes the unpermitted pollution of the waters of the state in contravention of any provision of this Subtitle, any regulations adopted hereunder, or the terms and conditions of any permit, license, or order issued hereunder upon obtaining knowledge of such shall notify the secretary and if necessary take prompt remedial action pursuant to appropriate regulations adopted under this Subtitle or as ordered by the secretary or by an authorized assistant secretary. The goal of such regulations or orders, to the extent economically and technologically reasonable, is to eliminate those releases that may reasonably pose a threat to human health or the environment and to remediate contaminated media, taking into consideration current and expected uses.

